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Letter dated 29 December 2008 from the Permanent Representative of the Philippines to the United Nations addressed to the President of the Security Council

On instructions from my Government, I have the honour to request that the full version of the statement made by the representative of the Philippines at the meeting of the Security Council held on 9 December 2008, on the item entitled "Threats to international peace and security caused by terrorist acts" (see annex) be circulated as a document of the Security Council.

(*signed*) Hilario G. **Davide, Jr.**
Permanent Representative

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Annex to the letter dated 29 December 2008 from the Permanent Representative of the Philippines to the United Nations addressed to the President of the Security Council

Tomorrow we shall celebrate the commemoration of the sixtieth anniversary of the adoption of the proclamation of the Universal Declaration of Human Rights. Only last 24 October, we also celebrated the sixty-third anniversary of the entry into force of the United Nations Charter. Above all measures, these are historic milestones for the United Nations and are events of unparalleled significance.

One of the purposes of the Charter is to maintain international peace and security and to that end to, inter alia, take effective collective measures for the prevention and removal of threats to peace. In its preamble, the Universal Declaration of Human Rights declares that the recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world and that disregard and contempt for human rights have resulted in barbarous acts that have outraged the conscience of mankind. These rights include the rights to life, liberty and security.

There can be no doubt at all that terrorist acts are threats to international peace and security.

Hence, the holding of this debate on the agenda item, "Threats to international peace and security caused by terrorist acts" is certainly very timely and appropriate. Thus, the Philippines commends and expresses its gratitude to the President of the Security Council for organizing this debate.

More than enough has been said and recorded in the United Nations system on terrorism. The latest comprehensive report of the Secretary-General under agenda item 118 of the General Assembly at its sixty-second session, entitled: "United Nations Global Counter-Terrorism Strategy: activities of the United Nations system in implementing the Strategy", identified as document A/62/898, shows us the complexity of the problems created by international terrorism as it affects international peace and security; the progress made thus far in combating it; and the measures recommended to be pursued to prevent or counter terrorism.

In my speech at the tenth annual International Judicial Conference, held in Strasbourg, France, in May 2002 under the sponsorship of the Center for Democracy, the Council of Europe and the Furth Family Foundation, I asserted that we must resist the temptation to attribute to terrorism some kind of mythic magnitude that makes it larger than life. I told the audience that terrorism is man-made; therefore, it can be solved by men and women of resolve.

Today, I say that there is one body that is much greater than the men and women of resolve. It is the United Nations, with its 192 Member States. Not only does it have the resolve, it has the will, the power, the might and the resources to counter and solve terrorism; and face to demolish, if it wishes to, every act of terrorism in any part of the globe. With the deadly tentacles of terrorism spreading over many places, the latest of which was Mumbai, India, the United Nations must now more than ever assert its power and might.

For this debate, let me contribute a few thoughts on how the United Nations, particularly the Security Council, can move further forward in this fight against

terrorism viewed from the legal and judicial perspectives, with which I have some familiarity.

I respectfully submit, as I did at the Strasbourg Conference I earlier mentioned, that there should now be a universally accepted definition of terrorism and a condemnation thereof as a crime, with a recognition of the criminal intent of striking fear and terror. I find in the report of the Secretary-General, referred to earlier, that there is an Ad Hoc Committee, established by General Assembly resolution 51/210 of 17 December 1996, tasked to draft a comprehensive convention on international terrorism, and ably supported by the Office of Legal Affairs. While having achieved some progress, the Committee is finding some disagreements among Member States regarding the scope of the convention, and that attempts will be made to resolve them in the Sixth Committee during the sixty-third session of the General Assembly. The convention could be the proper document for the definition of terrorism.

In the same conference, I also stated that the United Nations has lost the first opportunity to make a definition of the crime of terrorism when the Rome Statute of the International Criminal Court was deliberated upon and approved by 160 Member States. The Statute could even have included terrorism as one of the crimes recognized by the Court.

I hope that the Security Council and the General Assembly can do something to expedite the adoption of the convention on terrorism, which is still in the drawing board of the Ad Hoc Committee.

Likewise, I wish to reiterate here the proposal I made before the same Strasbourg Conference for national legislatures to enact laws defining and punishing terrorism as a crime. It could be treated as a "crime in violation of the law of nations". This would have two legal consequences. First, it would make applicable the "doctrine of universal jurisdiction". Second, it would provide for concurrent jurisdictions between international courts and domestic courts and allow the latter to yield jurisdiction to international courts according to treaty obligations. The Philippines has already enacted a law, the Human Security Act of 2007, defining and penalizing two crimes: (1) terrorism; and (2) conspiracy to commit terrorism.

Finally, Mr. President, let me state that among the strong and effective deterrents to the commission of crimes are the expeditious prosecution and trial of cases against the offenders and the rendition of just, fair and impartial judgement. Delays in the prosecution, trials and judgement of terrorists would send wrong signals to them and their co-conspirators. These would either embolden them to assert their strength and make a mockery of the weakness of the processes aligned against them; or give them reason to claim that their comrades in detention are deprived of due process and then instigate an escalation in their terrorist acts. Things would have been entirely different if, for example, there had been expeditious prosecution and trials and the meting of justice to terrorists involved in the 9/11 tragedy and similar tragedies. Continuous trials of these cases must be adopted as a standard practice. In this regard, the United Nations must do something.